

**U.S. ARMY RESERVE
PERSONNEL COMMAND**

**FULL TIME SUPPORT
MANAGEMENT
DIRECTORATE**

**ACTIVE GUARD RESERVE
(AGR) PROGRAM**

Commanders' Guide for
Handling Substandard
Soldiers

23 August 2002

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INTRODUCTION

This information packet is designed to provide a convenient reference for commanders to use in identifying and managing deficient USAR Active Guard Reserve (AGR) soldiers. It includes step by step guides for a number of actions, including Bars to Reenlistment and enlisted involuntary separations.

This update contains a new section addressing actions available to both officer and enlisted AGR soldiers. It also contains a discussion of UCMJ considerations. Additionally, it incorporates citations to the revised Army Regulation 635-200, published 1 November 2000.

All USAR AGR soldiers are assigned to the U.S. Army Reserve Personnel Command (AR-PERSCOM) and managed by the Full Time Support Management Directorate (FTSMD). They are further attached to commands where they provide administration, training, and other support. FTSMD is the physical custodian of USAR AGR Military Personnel Records Jacket and Career Management Individual File. Commands to whom AGR soldiers are attached must coordinate closely with FTSMD Officer and Enlisted Special Action Branches when planning adverse administrative action against an USAR AGR soldier. Doing so ensures that the soldier is properly flagged from favorable personnel action and that adverse personnel actions are properly filed in personnel records. FTSMD can be reached by calling toll free (800) 325-4118 or (314) 592-1234.

Currently the AGR program provides AGR Judge Advocates at all Regional Support Commands, the U.S. Army Civil Affairs and Psychological Operations Command, several Exercise Training Divisions, as well as at an ever-expanding number of other General Officer led units. These Judge Advocate resources facilitate processing of adverse administrative actions and nonjudicial punishment by reserve commanders, as well as facilitating military justice support from active army commands. Legal advisors support all USAR commands [IAW AR 27-1](#) and [AR 5-9](#).

The information in this publication is subject to regulations and other policy guidance issued subsequent to its publication. It does not supercede guidance in [FM 27-1](#). If have a local Judge Advocate and have a problem, contract him or her.

SECTION ONE – MANAGEMENT TOOLS FOR BOTH AGR OFFICERS AND ENLISTED SOLDIERS

1. Counseling

Commanders and supervisors should routinely counsel all soldiers concerning their duty expectations and performance. Conversation with a subordinate is essentially informal counseling. A written counseling record establishes a factual justification for future adverse administrative actions necessary to prevent continued service on active duty as an AGR soldier. [AR 600-20](#) provides Army policy on counseling.

- a. The evaluation report regulations ([AR 623-105](#) for officers and [AR 623-205](#) for enlisted soldiers) require specific counseling at the beginning of the rating period. Provide a soldier with a copy of written counseling. Subsequent counseling sessions will be conducted by the supervisor as required by these regulations, and should be accomplished for positive feedback on improvements noted, as well as continued substandard/negative performance.
- b. If involuntary separation of an AGR soldier is contemplated, the counseling must be recorded on a [Developmental Counseling Form, DA Form 4856](#) (formerly "General Counseling Form") and authenticated by the soldier. **It must meet the active army advisement requirements found in [AR 600-8-24](#) and [AR 635-200](#), not AR 135-175 and 135-178.** (See links below and sample boilerplate language on page 5.)

- [NCO COUNSELING CHECKLIST/RECORD](#)
- [OFFICER EVALUATION REPORT SUPPORT FORM](#)
- JUNIOR OFFICER DEVELOPMENTAL SUPPORT FORM
- [DEVELOPMENTAL COUNSELING FORM: DA FORM 4856](#)

ENLISTED AGR COUNSELING BOILERPLATE - DA FORM 4856, GENERAL COUNSELING FORM

Part II, Purpose of Counseling: (State purpose of counseling and soldier's responsibilities as a NCO, etc). (Facts: Date and circumstances of incident resulting in counseling statement, and reference any attached documents and/or statements.)

Part III, Key Points of Discussions: (Summarize details, which caused the counseling in more detail to include the following):

You have just been counseled for unsatisfactory performance/disciplinary infractions/misconduct. Continued behavior of a similar nature may result in your administrative separation (Chapter 13 or 14) AR 635-200. If you are separated, a discharge will be issued. The characterization of service (discharge) possible for you to receive depends on the circumstances and under which chapter you are processed. However, the three possible administrative discharges are the full Honorable discharge, the General discharge (under honorable conditions) and Other than Honorable discharge. If you receive a General or an Other than Honorable discharge you will likely experience a loss of eligibility for Army and Veteran's benefits and your Army service may possibly be viewed in an unfavorable light in the civilian community and by government entities when seeking employment. Bonuses paid to you may be recovered and you could possibly lose your Montgomery GI Bill benefits. Discharges are rarely upgraded. In summary, an Honorable discharge generally allows you to receive full Army and VA benefits; a General discharge reduces some of these benefits; and an Other than Honorable discharge reduces even more of your benefits. I hope you will take this counseling seriously and correct your behavior.

2. Suspension of Favorable Personnel Action (“Flag”)

Whenever a soldier is under investigation, prosecution, pending adverse administrative actions or UCMJ action, AR 600-8-2 requires the commander to flag the soldier’s personnel records to prevent favorable personnel actions. The flag is a completed [DA Form 268](#). Consult [AR 600-8-2](#) for processing requirements and steps.

- a. Favorable personnel actions include the following: promotion, permanent change of station (PCS) (except for APFT/Weight flags, which allow PCS) active duty, assumption of command, awards, and retirement.
- b. Bases can include the following: [AR 15-6](#) and other investigations, pending UCMJ action, general officer memorandum of reprimand (GOMOR), rank reduction, involuntary separation, APFT or height/weight failure, referred OER while on the promotion list, other adverse administrative actions and security violations.
- c. The soldier will be informed that a flag has been imposed. The soldier cannot appeal a flag. The flag is removed upon completion of the investigation, action, completion of punishment or AR-PERSCOM receipt and acceptance of referred evaluation report.
- d. A copy of a nontransferable flag should be sent to FTSMD via fax (314) 592-1240 so that the soldier will not be reassigned. Copy FTSMD when the flag is removed. A copy of all flags (transferable and nontransferable) should be sent to FTSMD via fax (314) 592-1240 so that the soldier can be properly managed. Also, provide FTSMD a copy of the DA Form 268, which closed the flag when the soldier’s status changes. Receipt of the closing flag in FTSMD is imperative as flags are recorded on our automated system AGRMIS. Favorable personnel action will continue to be suspended until the Special Actions Branch, FTSMD removes the flag from AGRMIS.

3. Nonpunitive Administrative Memorandum of Reprimand/Admonition/Censure

When a supervisor or commander believes that it is more likely than not that a soldier has committed a specific act of misconduct, a unit commander or supervisor in the rating chain may issue a memorandum of admonition or reprimand (see 3g below). The commander may simply give a memorandum of admonishment to the soldier without further action. If he or she wishes a reprimand to be filed in the soldier’s Official Military Personnel File (OMPF) or Military Personnel Records Jacket (MPRJ) **the requirements and procedures specified in [AR 600-37, Chapter 3](#) apply. (See sample of reprimand package.)**

- a. The terms used in a memorandum generally indicate the level of seriousness, of the offense committed by the soldier. “**Admonition**” commonly means a warning that the soldier’s conduct is considered misconduct, will not be tolerated, and may bring on more serious action by the commander if repeated. “**Reprimand**” indicates a more serious misconduct, normally to be recorded in an official file.

- b. *Standards.* Those acts that indicate substandard leadership ability, judgment, promotion potential, morals, or integrity are appropriate for documentation in the soldier's personnel records. (See [AR 600-37, paragraph 3-2.c.](#))
- c. *Supporting and allied documentation.* The memo and supporting documentation must be provided to the soldier and they must be allowed to respond in writing prior to a final decision, per AR 600-37, paragraph 3-2.a. For OMPF filing, the memorandum will list and include the supporting documentation, per AR 600-37, paragraph 3-4.b.(1); if previously provided to the soldier for an opportunity to respond to the information contained therein, indicate that fact in the memo. Allied documents may also be included with an OMPF-filed reprimand, per AR 600-37, paragraph 3-4.b.(c). **Also, filing the supporting documentation with the memo ensures the documentation is already a part of the soldier's personnel records, should subsequent adverse action be based in part upon the reprimand, such as processing for involuntary release from active duty or separation.**
- d. *Statements and evidence from recipient.* When MPRJ filing is directed, statements and evidence furnished by the recipient will be attached to the letter per AR 600-37, paragraph 3-4.a. When OMPF filing is directed, the directing official can choose to file statements furnished by the recipient with the letter per AR 600-37, paragraph 3-4.b.(1)(b). Otherwise, per AR 600-37, paragraph 3-4.a.(4), they are attached to the copy that is required to be filed in the MPRJ per AR 600-37, paragraph 3-4.b.(5).
- e. The memorandum must contain a statement that the admonition or reprimand is being imposed as an administrative measure and not as nonjudicial punishment under UCMJ Art.15. The soldier ***must*** be informed of the intended filing of the letter (e.g. OMPF, MPRJ, not filed.)
- f. Filing in the OMPF is in the performance fiche only, not the restricted fiche. Forward any OMPF directed reprimands; acknowledgement; response; and filing directive to: Commander, AR-PERSCOM, ATTN: ARPC-ZJA. ZJA will notify FTSMD, at AR-PERSCOM of pending GOMOR OMPF directed filing.
- g. Commanders will send MRPJ reprimands of AGR soldiers to: Commander, AR-PERSCOM, ATTN: APCR-ARO-S (officers) and APCR-ARE-S (for enlisted soldiers), 1 Reserve Way, St. Louis, MO 63132-5200. Filing in the MPRJ cannot exceed the sooner of PCS to another GCMCA jurisdiction or three years, except for copies filed per AR 600-37, paragraph 3-4.b (5).
- h. Who can issue and file?
 - 1) *Commissioned and Warrant Officer Recipients.* May be issued by the following: the immediate commander or higher in the command chain; rating chain as designated under the officer evaluation system; any general officer senior to the recipient or recipient's general court-martial convening authority. May be filed in MPRJ by same. May be filed in OMPF by general officer senior to recipient or an officer having GCMCA over recipient.

- 2) *Enlisted Personnel Recipients*. May be issued by the following: recipient's immediate commander or higher in the command chain, school commandants, any general officer or an officer having GCMCA over recipient, and immediate supervisor. May be filed in MPRJ by same, except immediate supervisor, unless supervisor serves in one of the other named capacities. May be filed in OMPF by general officer senior to recipient or an officer having GCMCA over recipient.
- i. An oral admonition or reprimand may be administered by the commander at a time and place of the commander's choosing and should be properly annotated in a quarterly counseling statement.

SAMPLE GENERAL OFFICER MEMORANDUM OF REPRIMAND
(COMMAND LETTERHEAD)

AFRC-ASC-JA

Date: _____

MEMORANDUM FOR Major _____, 000-00-0000, 000th U.S. Army Hospital (Aug),
Building 000, West 00000-0000

SUBJECT: General Officer Memorandum of Reprimand

1. On 00 June 1999X, you submitted to a unit urinalysis inspection, while on IDT status, with your Reserve unit. On or about 00 October 199S, this command received confirmation that you tested positive for drug metabolite 11-nor-9-carboxy-delta-9-tetrahydrocannabinol, which is produced by the metabolism of marijuana, a controlled substance. (See enclosed excerpt of drug test packet.) You testified under oath, after a proper Article 31 rights warning, on 5 November 199X, that you used marijuana on an occasional basis as early as April 199X until sometime shortly before the unit urinalysis test. You testified that you knew that the use of marijuana violated military policy. You further testified that you knew that the person supplying you with marijuana was a drug dealer, yet you continued to associate with this person for several months. (See enclosed summary of testimony).

2. You are hereby reprimanded for your poor judgment and your breach of the special trust and confidence accorded to you as a commissioned officer. You lack the personal discipline, self-control, and integrity required of a United States Army officer. Your behavior indicates that you cannot be trusted to be a leader of America's Reserve soldiers. Your conduct was inexcusable under any circumstances and is a disgrace to the reputation of the U.S. Army Reserve, the Army Medical Department, and the Army officer corps. Conduct of this nature will not be tolerated.

3. This is an administrative reprimand imposed under the provisions of AR 600-37 and not as punishment under Article 15, Uniform Code of Military Justice. I am presently considering whether to direct that this reprimand be filed permanently in your Official Military Personnel File. You will submit acknowledgement of this reprimand within five (5) days from receipt by signing enclosure three (3) and returning the memorandum to Commander, U.S. Army Hospital (AUG), Building 000, West 00000-0000. You may also submit any rebuttal matters to me, the Commander. You have 10 days from receipt of this reprimand to submit any rebuttal matters to the Commander at the above address. If no response is received from you within 10 days from receipt, this reprimand will be processed as if you refused to submit any rebuttal.

3 Encls

1. Drug Test Report Excerpt
2. Summary of Proceedings
3. Acknowledgement

GEORGE PATTON
Brigadier General, USAR
Commanding

SAMPLE ACKNOWLEDGMENT TO
GENERAL OFFICER MEMORANDUM OF REPRIMAND
(MEMO FORMAT, BLANK PAPER)

Date: _____

MEMORANDUM FOR Commander, 0000th U.S. Army Hospital (Aug), Building 000,
West Street, San Jose, SC 00000-0000

SUBJECT: General Officer Memorandum for Reprimand - Soldier's Name, Social
Security Number

1. I hereby acknowledge receipt of a General Officer Memorandum of Reprimand
Dated 5 February 1999X. This Memorandum of Reprimand was received on _____
February, 199X. I have read and understand the unfavorable information
presented against me.
2. I understand that the written reprimand will be considered for filing in my
Official Military Personnel File (OMPF) and that a filing decision will be made
by a General Officer in my chain of command only after consideration of matters
I may submit in rebuttal, extenuation, and/or mitigation NLT 00 March 199X.
3. Upon review of this letter, I have taken the following action:

_____ A statement or documents are submitted on my behalf are attached, or

_____ I elect not to make a statement on my behalf.

LAST NAME, FIRST AND INITIAL
RANK, USAR
000-00-0000

(COMMAND LETTERHEAD)

AFRC-ACS-JA (600-37)

(Date)

MEMORANDUM FOR Commander, U.S. Army Reserve Personnel Command,
(ARPC-ZJA), 1 Reserve Way, St. Louis, MO 63132-5200

SUBJECT: General Officer Memorandum of Reprimand -
MAJ _____, 000-00-0000

1. I have carefully considered all the facts pertaining to this matter to include the rebuttal memorandum and enclosures from MAJ _____, in response to the Memorandum of Reprimand.
2. I direct that the enclosed Memorandum of Reprimand be filed on the performance portion of the Official Military Personnel file of MAJ _____ with her response.

Encls

GEORGE PATTON
Brigadier General, USAR
Commanding

CF:
MAJ _____
Unit Commander
FTSMD, ATTN: ARO/ARE-S

4. Relief for Cause

- a. A relief for cause is used, at the discretion of a commander, for an officer or noncommissioned officer's failure in the performance of their duty. The concept of duty performance is addressed in [AR 623-105, paragraph 5-18](#) (officers) and [AR 623-205, paragraph 3-2](#) (noncommissioned officers).
- b. Prior written approval from the first General Officer in the chain of the subject officer is required for relief from a command position. Procedures of [AR 600-20, paragraph 2-17](#) apply. Normally an officer is suspended from command first, before relief.
- c. An OER or NCO-ER will be completed in all cases where the soldier is relieved for cause. **(See sample of relief for cause pages 13-16)** The evaluation report will be referred to the soldier.
- d. If the relief is based upon the findings and recommendations of an informal [AR 15-6](#) investigation, the referral procedures of that regulation must be complied with prior to initiating any relief for cause action, even though a relief evaluation report is referred to the recipient pursuant to AR 623-105 or AR 623-205. The relieving commander may temporarily suspend the soldier from assigned duties pending consideration of the soldier's rebuttal to the AR 15-6 investigation.
- e. Relief for cause actions must be coordinated with Commander, AR-PERSCOM (FTSMD), per [AR 140-30](#), paragraph 4-8. You may also call FTSMD at (800) 325-4118.
 - 1) Reattachment following relief for cause will not be considered until the appropriate evaluation report is processed by the Evaluation Support Branch (ARPC-PSV-E), per AR [140-30](#), paragraph 4-8. When a relief for cause OER results in referral of an officer's official file to Department of the Army Active Duty Board (DAADB), the officer will remain with his/her unit of attachment until the results of the Board are finalized (see Section Three, paragraph 1 for further guidance).
 - 2) Movement of a soldier depends on the availability of a position commensurate with the soldier's specialty and skill level. However, the backfill may not be able to report in a timely manner. Consider movements if the soldier is detrimental to the accomplishment of the unit's mission or hinders the commander's leadership effectiveness.

SAMPLE OFFICER EVALUATION REPORT REFERRAL
(COMMAND LETTERHEAD)

AFRC-ASC-JA

Date: _____

MEMORANDUM FOR Major _____, 000-00-0000, 000th U.S. Army Hospital
(Aug), Building 000, West 00000-0000

SUBJECT: Officer Evaluation Report (OER) Referral - Name, SSN

1. Under the provisions of AR 623-105, paragraph 4-27 and 5-28, the enclosed copy of DA Form 67-8, for the period _____ - _____, is referred to you for acknowledgment. The specific reasons for referral are:

a. Unprofessional conduct in preparing and signing ____ battalion commander's name on an _____.

b. Poor judgement and unacceptable decision-making, shown by an inability to separate the important from the routine.

c. Lack of interpersonal and managerial skills in coordinating the actions of staff officers. ____ conduct has bordered on disrespect and has created intolerable friction in unit.

d. Lack of appreciation for the requirement of separation of the officer corps and the enlisted rank structure.

2. You must acknowledge receipt of the enclosed copy and may provide comments if desired. Any comments submitted must be factual, concise, and limited to matters directly related to the evaluation on the referred report. Enclosures to comments provided are not authorized and will be withdrawn prior to forwarding the report, referral, acknowledgment and comments to HQDA.

3. Should you submit comments with your acknowledgment, you are advised the they will not constitute a request for a Commander's Inquiry or Appeal. Such requests must be submitted separately under the provisions of AR 623-105, paragraph 5-30 or chapter 9, as appropriate.

4. Acknowledge receipt of the referred OER and submit and desired comments, by return endorsement, in accordance with the above indicated suspense date.

Enclosure

GEORGE PATTON
Brigadier General, USAR
Commanding

SAMPLE COMMENTS TO OFFICER EVALUATION REPORT
(COMMAND LETTERHEAD)

AFRC-ASC-JA

Date: _____

MEMORANDUM FOR Major _____, 000-00-0000, 000th U.S.
Army Hospital (Aug), Building 000, West 00000-0000

SUBJECT: Comments to Officer Evaluation Report

4. I have received the comments to the Officer Evaluation Report for the period _____ to _____ as prepared by your counsel and acknowledged by you. The comments are specifically set forth in correspondence, dated January 4, XXXX.

5. In accordance with AR 623-105, paragraph 3-33, I have carefully considered the matters set forth in that correspondence, especially with regard to the comments regarding the senior rater portion of the evaluation.

6. Without determining the verity of significance of the positions set forth in the comments to the rater's evaluation, I referred the matter to the rater for review, as permitted under the regulation. This action was taken on the basis, that if the issues raised are relevant, substantiated and accepted, such issues possibly "could affect the evaluation.

7. After due consideration, neither the rater nor I, as the senior rater, will revise the evaluation. The Officer Evaluation Report shall be processed in accordance with the regulatory guidance.

GEORGE PATTON
Brigadier General, USAR
Commanding

SAMPLE RELIEF FOR CAUSE NOTIFICATION
(COMMAND LETTERHEAD)

AFRC-ASC-JA

Date: _____

MEMORANDUM FOR Major _____, 000-00-0000, 000th U.S.
Army Hospital (Aug), Building 000, West 00000-0000

SUBJECT: Relief for Cause

1. In accordance with AR 623-105, paragraph 3-50, you are hereby notified that I am relieving you for cause.
2. The basis for this action is:
 - a. That you demonstrated unprofessional conduct by preparing, signing my name, and submitting _____ without my direction or knowledge. This action has resulted in a loss of trust and responsibility required for the position.
 - b. You demonstrate poor judgement and unacceptable decision-making, shown by an inability to separate the important from this routine.
 - c. You demonstrate a lack of interpersonal and managerial skills in coordinating the actions of staff officers senior to you in grade and or/date of rank.
 - d. You display a lack of maturity and acceptance of responsibility for your actions.
3. I have initiated a relief for cause Officer Efficiency Report. Once completed, you will be given the report for signature IAW AR 623-105.
4. You will take immediate steps to transfer (to CPT _____ all keys, credit cards, passwords to the CLAS computer, and remove your belongings from your office before close of business today. You will report MAJ _____ HHC 4th Brigade at 0800 hours on 9 November 200X to begin your temporary duty until permanent change of duty orders are published.

Encl
15-6 ROI

GEORGE PATTON
First GO in Chain of Command
Commanding

SAMPLE OFFICER EVALUATION REPORT - DA FORM 67-9

Part III, Duty Description:

Responsible for the planning, direction, and execution of logistical, administrative, and operational support for all assigned/attached units to the Brigade. Provides internal and external customer support for LANES, consisting of 24 units and 9 military installations. Supervises daily training exercises and operations. Ensures over \$14 million of TDA equipment, OCIE, and vehicles are FMC and readily available for support. Reviews training schedules and calendars. Supervises ATRRs data input for soldier schooling and specialty MOS training. Performs Battalion S-1 and unit administrator functions due to personnel shortages. Represents the Battalion command in his absence. Briefs the Brigade Command Sergeant Major and Commander on support missions as required.

Part V, Performance and Potential Evaluation:

I, _____ am the rating official that directed the relief of ____ for the following reasons:

- a. ____ demonstrated unprofessional conduct by preparing, signing my name, and submitting _____, without my direction or knowledge. This unethical action resulted in a loss of trust and confidence required for the position (Part Iva.2/6/7).
- b. ____ demonstrated poor judgment and unacceptable decision-making, shown by an inability to separate the important from the routine. (Part Ivb.2.1, b.3.2).
- c. ____ demonstrated a lack of interpersonal and managerial skills in coordinating the actions of staff officers senior to ____ in grade and or/date of rank. Such conduct has bordered on disrespect and has created an intolerable friction among the personal assigned to this unit. (Part Ivb.2.2, b3.1/3/8).
- d. ____ displayed a lack of maturity and acceptance of responsibility for ____ actions. (Part Ivb.3.9).
- e. ____ does not appreciate or recognize the reasons for, or the requirement of separation of the officer corps and the enlisted rank structure.

Part VII, Senior Rater:

_____ was relieved for lack of integrity and judgment. The facts of _____'s submission of _____, under that commander's signature, is alone a sufficient basis for relief. ____ required constant mentorship throughout the rating period and was unable to accomplish routine tasks without constant supervision. ____ was unable to portray ____ battalion staff members as a team by consistently blaming members of ____ staff for any battalion shortcoming. ____ ____ should not be considered for retention in the Active Guard/Reserve Program nor an assignment to the Troop Program Unit. A DA Form 67-9-1 was not received with this report due to the circumstances necessitating the relief for cause. Officer refused to sign OER or indicate in writing that comments will be made. Officer did indicate orally that comments are pending.

5. Voluntary Release from Active Duty

- a. AGR soldiers may request early release from active duty per [AR 600-8-24](#) for officers or [AR 635-200](#) for enlisted soldiers. Such releases will be consistent with the needs of the Army, and the laws and regulations providing for the retention of reservists on active duty.
- b. Requests must be in writing and processed through the chain of command to the approval authority. Follow the procedures specified in [AR 140-30](#), paragraph 9-1.
- c. Voluntary requested separations per [AR 635-200](#), paragraph 5-15 require AR-PERSCOM or CAR (or higher) approval. That paragraph will not be used as authority for release from AD of an AGR soldier who meets separation criteria under other provisions of AR 635-200.
- d. DA reserves the right to require compliance with valid active duty orders.

SECTION TWO - MILITARY JUSTICE CONSIDERATIONS

1. AGR soldiers serve on active duty and are subject to the provisions of the Uniform Code of Military Justice, (see [Manual for Courts Martial, 2000 Edition](#)). They can be prosecuted for violation of its punitive provisions to the same extent as soldiers in the Active Army. They can be recalled to active duty to stand trial for offenses committed while on active duty, so long as they have not been validly discharged.
2. The Army's policy for administration of military justice is provided in AR 27-10, [Military Justice](#). It should be consulted carefully. Chapter 21 of AR 27-10, paragraph 2-10 addresses military justice policy within the reserve components. **As a matter of Army policy, Reserve Component GCMCA and SPCMCA commanders may not exercise courts-martial authority, absent a case-by-case exception to this policy.** Some Army Reserve GCMCA commanders have been delegated authority to refer cases to SPCM-non-BCD and to commence such courts. Check with your SJA. [AR 135-18, paragraph 2-10, The Active Guard Reserve \(AGR\) Program](#), provides additional guidance.
3. The AGR soldier's orders usually designate an active duty installation to provide general and special court-martial support, in the For Army Use section under "UCMJ Resp", pursuant to [AR 600-8-105](#) and [AR 27-10](#). FTSMD should be contacted for changes/clarification regarding the designated installation, as well as post-trial coordination. **Per the Army's policy at AR 140-30, paragraph 5-8.h.(2) FTSMD will publish reattachment orders for UCMJ purposes. (For additional information concerning reattachment for UCMJ purposes see comments at page 34).**
4. AGR soldiers may be subject to nonjudicial punishment per [Article 15, UCMJ](#) by his or her RC commander.
 - a. The former FORSCOM Supplement to AR 27-10, which constrained such action, was rescinded effective 1 June 1996.
 - b. [AR 27-10](#), Chapter 3 provides policy and instructions for administering nonjudicial punishment and the disposition of associated records. If a nonjudicial punishment record is filed in the performance part of the AGR soldier's record, the soldier may then be ineligible for a subsequent AGR tour, per [AR 135-18, Tables 2-5 and 2-6](#).
 - c. Special Reserve Considerations.
 - 1) Nonjudicial punishment of Reserve Component officers (commissioned and warrant) is reserved to the Active Army or Reserve Component General Court-Martial Convening Authority to whose command the officer is assigned or attached for disciplinary purposes, or to commanding generals in the officer's chain-of-command, per [AR 27-10](#), paragraph 21-6.d.

- 2) Reserve Component soldiers in the grade E6 and higher may not be reduced in grade as part of the nonjudicial punishment, per AR 27-10, Table 3-1, (Maximum Punishments) Footnote 4.

SECTION THREE – OFFICER ACTIONS

1. Involuntary Release from Active Duty

Under [AR 600-8-24, paragraph 2-31](#), an AGR officer can be involuntarily released from active duty and returned to the IRR. The mechanism for accomplishing this action is the Department of the Army Active Duty Board (DAADB); operated by Army Review Board Agency. **The result is REFRAD ONLY. Elimination procedures (see paragraph 2 below) are the proper management tool when the officer's misconduct or performance deficiency is so severe that suitability for continued service in the USAR in any capacity is questionable.**

a. *Criteria that the DAADB considers when evaluating an officer's file:*

- 1) Misconduct, moral or professional dereliction; or,
- 2) Substandard degree of efficiency or manner of performance. (**See 600-8-24 beginning at Table 2-12.**)

b. *DAADB actions can be initiated only when appropriate documentation exists in an officer's file to support such action.* Examples of the kinds of documentation that the DAADB will evaluate include the following:

- 1) Punishment under the Uniform Code of Military Justice, Article 15.
- 2) Conviction by courts-martial.
- 3) A pattern of substandard (usually referred) officer evaluation reports (OER) or a relief for cause OER.
- 4) A general officer memorandum of reprimand.

c. **Initiating DAADB action of an AGR officer**

- 1) A DAADB can be initiated by the Chief, Army Reserve, Commander, AR-PERSCOM, or the soldier's commander, per [AR 600-8-24](#).
- 2) It is recommended that the commander defer DAADB actions to the Commander, AR-PERSCOM, (action office: FTSMD, ATTN: ARPC-ARO-S) because:
 - a) The staff at AR-PERSCOM, has the technical expertise to properly prepare a file for forwarding through PERSCOM to the DAADB;

- b) AR-PERSCOM also has access to the officer's complete record of performance and can forward a more comprehensive file to the DAADB than the officer's commander; and
 - c) Since AR-PERSCOM may forward actions directly, considerable processing time can be saved as well. **(AR 600-8-24, Table 2-14 contains information that is summarized and provided to the DAADB; FTSMD has ready access to this information.)**
- 3) When a commander wishes to propose that Commander, AR-PERSCOM initiate a DAADB action, he or she should contact FTSMD, Chief, Officer Management Division. Written correspondence may be forwarded to Commander, AR-PERSCOM, ATTN: ARPC-ARO-S, 1 Reserve Way, St. Louis, MO 63132-5200. The FTSMD will then evaluate the case for DAADB processing. **(See sequence of events in AR 600-8-24, Table 2-14.)**
 - 4) Contacting FTSMD will not guarantee that an officer will be referred to the DAADB. However, note that FTSMD routinely screens the files of AGR officers for level of quality performance annually. When appropriate, Commander, AR-PERSCOM will initiate a DAADB action and forward the case to the DAADB. The officer's command is then informed of the referral when the officer is officially notified of when a DAADB case is initiated.
 - 5) DAADB action under [AR 600-8-24](#), paragraph 2-31, only removes an AGR officer from active duty. The officer does not lose his or her commission. Officers being considered by the DAADB are under a nontransferable flag and will remain with their unit of attachment until the outcome of the DAADB is known. Serious cases of misconduct should go before an officer elimination board or a courts-martial.
 - 6) The DAADB may additionally recommend that Commander, AR-PERSCOM process the officer for elimination from the USAR following the officer's transfer to the IRR, per the procedures specified in [AR 135-175](#).

SAMPLE REFERRAL FOR DAADB ACTION
(COMMAND LETTERHEAD)

AFRC-ASC-JA

Date: _____

MEMORANDUM THRU (the thru address should include the first General Officer in the AGR officer chain of command)

FIRST ADDRESSEE

SECOND ADDRESSEE

FOR Cdr., AR-PERSCOM, ATT: ARPC-ARO-S, 1 Reserve Way, St. Louis, MO 63132-5200

SUBJECT: Referral of CPT Doe, John D., QM, AGR, 000-00-0000, For Possible DAADB action

8. Enclosed you will find a copy of the Memorandum of Reprimand that has been rendered for CPT Doe. I have ensured that it will be processed expeditiously and appropriately for filing in his Official Military Personnel File (OMPF). Captain Doe's rebuttal statement is also enclosed.
9. It is my judgment that CPT Doe's performance and conduct as shown in the enclosed Memorandum of Reprimand make it clear that he can no longer serve effectively on active duty. It is for this reason that I ask that he be referred for DAADB action.
10. Point of Contact for this action is my Deputy Staff Judge advocate, LTC Frank Savage (AGR), at (000) 000-0000.

Encl

GEORGE PATTON
Major General, QM, USAR
Commanding

2. Elimination from the USAR

- a. In instances of substandard performance of duty, misconduct or professional or moral dereliction, elimination from the USAR may be warranted. In such cases, the USAR AGR officer is involuntarily released from active duty and loses his/her commission. The result is discharge from the USAR.
- b. Process AGR officers for elimination per [AR 600-8-24](#). The following are bases for elimination, per AR 600-8-24, Chapter 4.
 - 1) Substandard performance of duty.
 - 2) Moral or professional dereliction or;
 - 3) In the interests of national security.
- c. Who initiates? Any Commanding General Officer Show Cause Authority (GOSCA) may initiate or process for elimination an officer who is assigned or attached to his or her command. "GOSCA" includes all active and reserve general officers in a command that have a judge advocate or legal advisor available. See [AR 600-8-24](#), [Glossary](#).

3. Other Actions That May Result in Release from Active Duty

- a. *Continuation Board.* [AR 135-18](#) and [AR 140-30](#) stipulate that qualified USAR AGR personnel must be selected for continuation on active duty beyond the initial three-year tour. A continuation board held in the third year of the AGR soldier's initial AGR tour does the selection process. In recent years the Chief, Army Reserve has deferred convening the board. The purpose of the continuation board is to ensure that only qualified officers continue to serve in the USAR AGR Program. The level of a soldier's performance as an AGR soldier will be of key interest to the board. It is, therefore, imperative that commanders write accurate evaluation reports that will reflect true performance for their AGR soldiers so that the continuation board can make appropriate judgments.
- b. *Resignations.* [AR 600-8-24, Chapter 3](#), addresses the procedures dealing with the resignation or discharge of officers on active duty. The most common resignations are:
 - 1) Unqualified resignation. AR 600-8-24, paragraph 3-1.b., controls for AGR officers. AGR officers cannot submit an unqualified resignation while in AGR status. They must first request voluntary REFRAD per AR 600-8-24, Chapter 2. If REFRAD is approved, they may submit an unqualified resignation per [AR 135-175](#).
 - 2) Resignation in lieu of elimination under [AR 600-8-24, Chapter 4](#).

- 3) Resignation for the good of the service; and
- 4) Resignation by reason of pregnancy.

4. Request for Army Grade Determination Review Board (AGDRB) of Soldiers Separated for Serious Misconduct

- a. AGR officers who are administratively discharged for serious misconduct may nonetheless qualify for Reserve retirement pay if they have performed 20 years of retirement qualifying service (i.e. meets the requirements of AR 140-185.) They will receive retirement pay at their last highest pay grade at which they served satisfactorily.
- b. The AGDRB may reduce the final retirement grade where the soldier was found to have served unsatisfactorily in that pay grade, per [AR 15-80, paragraph 7](#).
- c. The outgoing officer's command may request that the Personnel Actions and Services Directorate, AR-PERSCOM, review the officer's personnel record and forward them to the AGDRB for grade determination. Supporting documentation should be included with the request, consistent with AR 15-80, paragraph 7.

Contact your local JAG office for access to the article, "*Do Officer Reservists Separated for Serious Misconduct with Twenty Good Years Still Get Their Reserve Retirement?*", The Army Lawyer, December 1998, DA PAM 27-50-313.

SECTION FOUR – ENLISTED SOLDIER ACTIONS

Just as it is incumbent upon all officers and NCOs to get our best performing soldiers to reenlist, it is equally important, that they ensure that those soldiers who do not “measure up” are prohibited from reenlisting or are separated if they cannot be rehabilitated. In performance cases particularly, it is recommended that progressive measures be used, e.g. written counseling, local (field) bar, reprimand, administrative separation action.

1. Bar to Reenlistment (Field Bar)

Detailed information on bar to reenlistment for AGR soldiers can be found in [AR 140-111, Chapter 1, Section VII, U.S. Army Reserve Reenlistment Program, 1 Sep 94, with Change 18, 1 Oct 97](#). What follows is general information concerning procedures for denying reenlistment to soldiers whose continued service with the USAR or in the USAR AGR Program is deemed not in the best interest of the service.

- a. *Why Initiate Bar?* Reenlistment in the USAR and the USAR AGR Program is a privilege. However, a Bar to Reenlistment primarily serves as a tool for rehabilitation. Soldiers who do not maintain high moral standards, professional competence, and demonstrated adaptability to the professional soldier's moral code, but whose separation under [AR 635-200](#), Enlisted Personnel, is not yet warranted, will be barred from continued AGR service. Conditions warranting a bar are listed in [AR 140-111, paragraph 1-30](#), and include but are not limited to untrainable soldiers (aptitudes, motivation, abilities), unsuitable, or those who have committed one or a combination of infractions (AWOL, substandard appearance, apathy.)
- b. *Effect of Failure to Bar.* When it comes time for a soldier to reenlist and no documentation prohibiting the reenlistment is initiated then the soldier must be reenlisted. A command Reenlistment NCO has no authority or right to prevent a soldier from reenlisting if the soldier is eligible and no action has been taken to stop the soldier from remaining in the service.
- c. *Who initiates a Bar?* Any commander in a soldier's chain of command may initiate the bar. Normally this action will be done by the company, battery, troop or detachment commander to which the soldier is attached on AGR orders. A senior commander in the chain of command who believes that a bar action is warranted will personally initiate the bar. A bar may also be initiated by a commissioned officer, who supervises a soldier, and is on a headquarters staff, agency or activity type organization.
- d. *When Can a Bar be Initiated?* A field bar can be initiated at any time when sufficient basis arises. However, if the bar is imposed the last 30 days before the soldier's Expiration of Term of Service (ETS) or release from active duty (REFRAD), the commander must provide a complete explanation as to why the action was not taken earlier.

e. *Degree of Bar Action.*

The officer initiating the bar will sign U.S. Army Reserve Bar to Reenlistment Certificate ([DA Form 8028-R](#)). The commander's basis for the bar will be summarized in Section I (Commander's Recommendation). The initiating official may not take final action on the bar. The certificate must be forwarded to the next higher headquarters for final action. Commander's recommendation should indicate whether a soldier should be:

- 1) *Barred from Continued USAR Service:* This bar will completely remove the soldier from the service (non-mobilization asset).
 - 2) *Barred from Continued AGR Service:* This bar will simply release the soldier from active duty in an AGR status (mobilization asset, i.e., returned to TPU, IMA or IRR status).
- f. *Bar Referral to AGR Soldier:* The initiating officer will refer the certificate to the concerned soldier for a statement on his or her behalf, if desired, per AR 600-37. The soldier will be given seven (7) days to respond.
- g. *Bar Review:* The field bar must be reviewed regularly. Any time a bar to reenlistment is reviewed and not recommended for removal the soldier will be reevaluated for possible REFRAD or discharge per AR 635-200, paragraph 1-47.
- h. *Appeals:* Appeals to Bar to Reenlistment is covered by AR 140-111, paragraph 1-31.2. A soldier serving on AGR status will be allowed seven (7) days to appeal. On a case by case basis an extension of the seven (7) day period may be granted by the official initiating the bar procedure.

2. Qualitative Management Program

- a. The Qualitative Management Program, formerly addressed in AR 601-280 and AR 40-111, has now been consolidated into AR 635-200, Chapter 19.
- b. The program concept is now one of HQDA-directed denial of continued active duty service. [AR 635-200, Chapter 19](#) now provides a separate QMP separation.

3. Enlisted Separations

- a. Enlisted AGR soldier separations are governed by [AR 635-200](#). There is no requirement that AGR soldiers be separated by active army commanders, although that remains an option.
- b. Separation authority is as stated in [AR 635-200, paragraph 1-19](#). Therefore, separation is accomplished by the command to which the soldier is attached. Separation by Commander, AR-PERSCOM, is required for separations per AR 635-200, paragraph 5-15. That provision will *not* be used as authority for REFRAD of an

AGR soldier who meets the criteria for separation under other provisions of AR 635-200.

- c. Involuntary separation for misconduct and unsatisfactory performance are the more common bases for separation action. **(Detailed information about processing steps can be found in AR 635-200 and at the end of this guide).**

4. Rehabilitative Transfer

A rehabilitative reattachment is normally used to provide a change of commanders, associates, and living or working conditions to rehabilitate a soldier. Some soldiers may have been given duties that are far above their capabilities, are having personal problems or other circumstances which may be affecting their performance. In these instances, a rehabilitative transfer may be appropriate. However, it is important to remember the AGR Program covers a wide geographic area and that a rehabilitative transfer may be difficult in some instances to accomplish on a timely basis. [AR 635-200, paragraph 1-16c\(3\)](#).

- a. Permanent changes of station funds are limited, and, unless a commander strongly recommends a soldier for a rehabilitative reattachment, a transfer may not be possible.
 - 1) Commanders or their representatives must coordinate the rehabilitative reattachment with Commander, AR-PERSCOM (ARPC-ARE-S).
 - 2) Commander, AR-PERSCOM will evaluate a commander's request and the soldier's complete personnel file, and then take appropriate action.
- b. [AR 635-200, paragraph 1-16](#) provides general guidance on rehabilitation requirement prior to initiating action to separate a soldier. Commander, AR-PERSCOM normally will ensure the transferred soldier is kept within the same General Court-Martial Convening Authority.
- c. Rehabilitative reattachments are dependent on availability of position commensurate with the soldier's specialty and skill level. Per the general guidance of [AR 635-200, paragraph 1-16](#), reattachments should normally be between battalion sized units, between brigades or larger units when necessary.
- d. Commanders may follow the provisions of [AR 140-30, paragraph 5-9](#) to temporarily detail a soldier (the location will not be greater than 50 miles) not more than 90 days, for rehabilitation purposes. Commander, U.S. Army Reserve Command (USARC) reserves the authority to approve all details (up to 90 days) within their subordinate units.

5. Reduction for Inefficiency

- a AGR enlisted soldiers who have served at least 90 days in the same unit may be administratively reduced one pay grade for inefficiency. (See [AR 140-158](#)).
- b Although promotion authority for AGR soldiers SSG and above has not been given to local commanders, reduction authority for inefficiency has been specifically delegated to field commanders. (See [AR 140-158, paragraph 7-2](#)).
- c Commander should establish a pattern of inefficiency rather than identifying a specific incident, when seeking a reduction in grade. (Long-standing personal debts that soldiers have not attempted to resolve can also serve as basis for a one-grade reduction for inefficiency.)

6. Discharge from the USAR

- a. An AGR soldier processed for separation per [AR 635-200](#) for alcohol or other drug abuse rehabilitation failure, misconduct or homosexual conduct, or with a characterization of service of under other than honorable conditions will automatically be considered for complete removal (i.e. discharge) from the Army by the board appointed to consider separation, per AR 635-200, paragraph 1-35. If separation is approved, the soldier is also discharged, rather than transferred to the Individual Ready Reserve.
- b. If an AGR soldier is to be discharged with an under other than honorable conditions characterization of service, **the soldier will be reduced to E-1** and then discharged. (See [AR 635-200, paragraphs 1-13. and 14-4.b., and AR 140-158, paragraph 7-12.a.](#))

7. Conclusion

Those commanders who maintain high standards of conduct and performance in their command promote readiness. Good positive leadership skills coupled with appropriate punitive or non-punitive measures should facilitate for commanders resolving those disciplinary or performance problems they may encounter with their AGR soldiers. Counseling at the right moment is the key element when working with those AGR soldiers that are not behaving or performing as expected. Well kept records of regular counseling sessions and documentation will support those actions a commander deems necessary. Generally, those actions lacking counseling records or documentation will not prevail and will result in a waste of time and as an example of poor leadership. Finally, there should be a balance between the behavior being disciplined or the performance to be improved and the severity of the disciplinary or corrective actions taken by a commander .

REFERENCES

[AR 15-6, Procedure for Investigating Officers and Boards of Officers.](#)

[AR 135-18, The Active Guard Reserve Program](#)

[AR 135-205, Enlisted Personnel Management](#)

[AR 140-30, Active Duty in Support of the United States Army Reserve \(USAR\) and Active Guard Reserve \(AGR\) Management Program](#)

[AR 140-111, U.S. Army Reserve Reenlistment Program](#)

[AR 140-158, Enlisted Personnel Classification, Promotion, and Reduction](#)

[AR 600-8-2, Suspension of Favorable Personnel Actions \(Flags\)](#)

[AR 600-8-24, Officer Transfers and Discharges](#)

[AR 600-8-105, Military Orders](#)

[AR 600-37, Unfavorable Information](#)

[AR 623-105, Officer Evaluation Reporting System](#)

[AR 623-205, Noncommissioned Officer Evaluation Reporting System](#)

[AR 635-200, Enlisted Personnel](#)

DA Pam 27-50-313, [The Army Lawyer, December 1998](#)

[FM 22-100, Army Leadership](#)

[FM 27-1, Legal Guide for Commanders](#)

[The Judge Advocate Officer Advanced Course Deskbook, 2000.](#)

ADDITIONAL RESOURCES

A. Information Paper - Enlisted AGR Soldier Separation Authority

INFORMATION PAPER

SUBJECT: AGR Enlisted Soldier Separation Authority

1. Purpose: To clarify the authority to initiate/process involuntary elimination of AGR enlisted soldiers.

2. Fact.

- a. Commanders have the option of seeking either removal from active duty (REFRAD) or involuntary elimination of an AGR enlisted soldier for misconduct, substandard performance of duty, or certain types of derogatory information. REFRAD accomplishes removal from active duty status, and reversion to IRR status, subject to active duty recall. Involuntary elimination, by contrast, **results in permanent removal from the U.S. Army Reserve.**
- b. Commanders process enlisted AGR soldiers for involuntary separation per AR 140-30 and AR 135-18 using the procedures found in AR 635-200. ***There is no requirement that AGR soldiers be separated by active duty commanders,*** although that remains an option. All RSC and DRC commanding generals with a judge advocate on their staff are GCMCAs. See AR 27-10, paragraph 21-8b.
- c. Depending upon the discharge characterization or ground for separation, either a GCMCA or SPCMCA is required to act as separation authority, per AR 635-200, paragraph 1-19.. Although AR 27-10, paragraph 21-8b precludes reserve component commanders from convening special and general court-martial, ***administratively they are still GCMCAs and SPCMCA***s and are authorized to act as separation authority in enlisted administrative involuntary separations.
- d. Because all U.S. Army Reserve AGR personnel are assigned to AR-PERSCOM and attached for duty to various units, AGR personnel records are stored centrally at FTSMD. Therefore, FTSMD should be contacted and coordinated with concerning flagging and filing of final adverse administrative actions, including involuntary elimination. FTSMD can be reached by calling (800) 325-4118.
- e. For additional information, contact the AR-PERSCOM, Military Law Division at (314) 592-0678 or the USARC Military Law Division at (404) 464-8193.